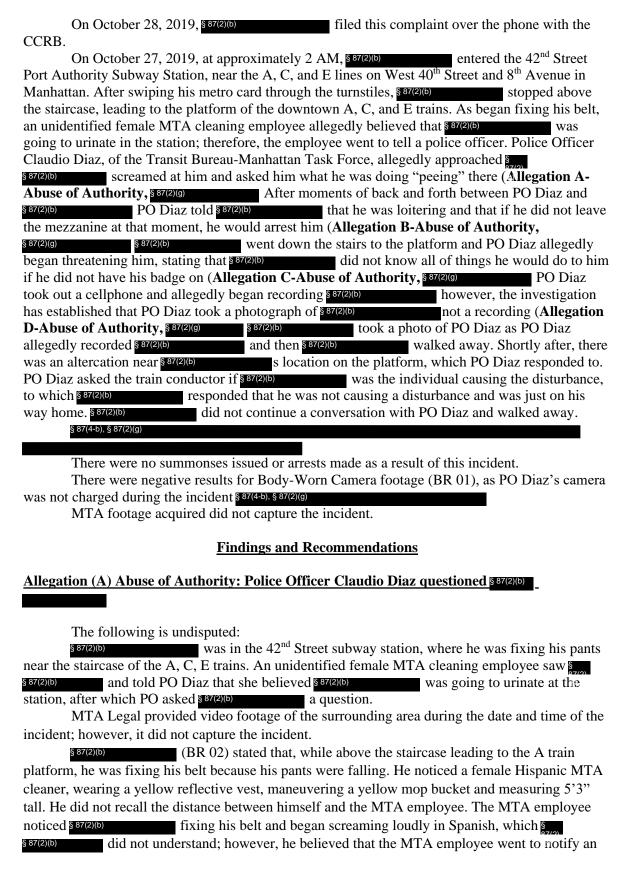
CCRB INVESTIGATIVE RECOMMENDATION

Investigator:		Team:	CCRB Case #:	☐ Force	☐ Discourt.	☐ U.S.
Jessica Russo		Squad #11	201909743	☑ Abuse	O.L.	☐ Injury
Incident Date(s)		Location of Incident:		Precinct:	18 Mo. SOL	EO SOL
Sunday, 10/27/2019 2:00 AM		Inside 42nd Street Port near the A, C, E trains 8th Avenue.		14	4/27/2021	12/12/2021
Date/Time CV Reported		CV Reported At:	How CV Reported	: Date/Time	Received at CCI	RB
Mon, 10/28/2019 10:07 AM		CCRB	Phone	Fri, 11/08/	2019 11:07 AM	
Complainant/Victim	Type	Home Addre	ess			_
Subject Officer(s)	Shield	TaxID	Command			
1. POM Claudio Diaz	16786	957538	TB M/TF			
Officer(s)	Allegati	Allegation		Investigator Recommendation		
A.POM Claudio Diaz	Abuse: Police Officer Claudio Diaz questioned § 87(2)(b)					
B.POM Claudio Diaz	Abuse: Police Officer Claudio Diaz threatened to arrest § 87(2)(b)					
C.POM Claudio Diaz	Abuse: Police Officer Claudio Diaz threatened § 87(2)(b) with the use of force.					
D.POM Claudio Diaz	Abuse: I	Police Officer Claudio D	iaz took a photograp	oh of		
§ 87(2)(g), § 87(4-b)						

Case Summary



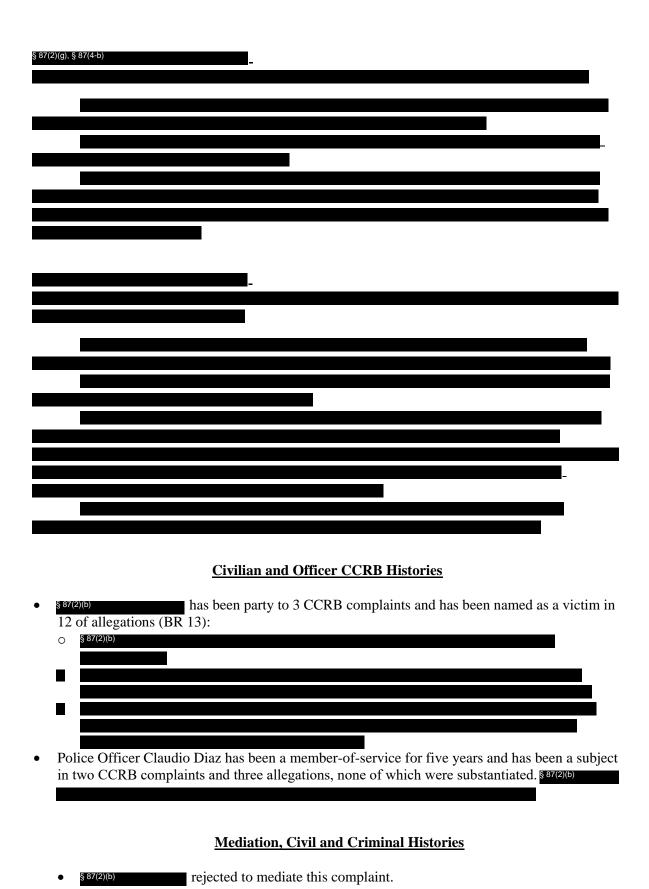
CCRB Case # 201909743

officer because, within seconds, PO Diaz ran up the stairs and "charged" at \$87(2)(b)
When PO Diaz reached \$87(2)(6) he screamed at him and asked him what he was doing
"peeing" there. \$87(2)(6) denied urinating and informed PO Diaz that he was fixing his
belt. PO Diaz continued to accuse \$87(2)(b) by stating that he was going to urinate.
continued to deny PO Diaz's accusations. §87(2)(b) testified that there was
no urine on the ground during this incident. He added that he was aware both him and PO Diaz
could have walked away (BR 02).
PO Diaz (BR 03) stated that he was leaning on the guard rail by the stairs on the mezzanine
of the West 40 th Street and 8 th Avenue subway station. He was standing with a female MTA
cleaning employee, whose information PO Diaz did not recall, including a physical description.
was standing 50-feet away from PO Diaz, also on the mezzanine. The MTA
employee told PO Diaz that she thought \$87(2)(b) was going to urinate but did not provide
any other information as to what led her to that conclusion. The MTA employee proceeded to do
her job and did not interact with \$\frac{87(2)(b)}{2}\$ at any point, while PO Diaz was present. PO
Diaz looked over at \$87(2)(b) and observed him adjusting his pants and lifting them. PO
Diaz did not observe \$87(2)(b) urinating. PO Diaz asked \$87(2)(b) if he was O.K
which upset \$87(2)(0) as he began yelling and screaming at PO Diaz. \$87(2)(0)
asked "I can't adjust myself?". PO Diaz did not recall asking § 87(2)(b) anything in regard
to "peeing" or, more specifically, the phrase "what are you doing peeing there". As
continued to yell things that PO Diaz testified he did not recall specifically, PO Diaz
stood at the same location and did not respond. §87(2)(b) went down the stairs to the
platform and continued to yell. PO Diaz testified that he did not approach \$87(2)(6) at any
point and spoke to him within the 50-foot distance between them, until \$87(2)(b) went
down the stairs. PO Diaz added that § 87(2)(b) was free to go throughout the entire incident
(BR 03).
§ 87(2)(g)
§ 87(2)(g)
Allegation (B) Abuse of Authority: Police Officer Claudio Diaz threatened to arrest 887(2)(b)
After going back and forth with PO Diaz about whether he was urinating in the subway
station, §87(2)(b) (BR 02) stated that PO Diaz told him that he was loitering and would be
arrested if he, \$87(2)(b) did not leave.
PO Diaz (BR 03) stated that he did not recall threatening to arrest §87(2)(b) at any
point throughout the incident, neither does he recall \$87(2)(b) committing any crimes that

he could have been arrested for.
There was no video footage available to provide further insight on the incident.
§ 87(2)(g)
Allegation (C) Abuse of Authority: Police Officer Claudio Diaz threatened 887(2)(5)
with the use of force.
(BR 02) stated that he went downstairs after PO Diaz allegedly
threatened to arrest him for loitering. While downstairs, he continued to speak with PO Diaz and
asked him for the name of his supervisor, which PO Diaz refused to provide. § 87(2)(b) told
PO Diaz that he would call Internal Affairs, to which PO Diaz responded, "all you guys do is
snitch". PO Diaz proceeded to call \$87(2)(b) a snitch at least ten times. PO Diaz began
threatening \$87(2)(b) stating that \$87(2)(b) did not know all of things he would
do to him if he did not have his badge on. §87(2)(6) believed PO Diaz meant that PO Diaz would physically harm him. §87(2)(6) did not specify the specific threats PO Diaz made
(BR 02).
PO Diaz (BR 03) did not recall threatening to use force against \$87(2)(6)
There was no video footage available to provide further insight on the incident.
§ 87(2)(g)
Allegation (D) Abuse of Authority: Police Officer Claudio Diaz took a photograph of 887(2)(6)
rinegation (B) ribuse of riuthority, ronce officer outdin Diaz took a photograph of
While downstairs, speaking to PO Diaz, Mr \$87(2)(6) testified (BR 02) that PO Diaz
took out a cellphone and §87(2)(b) saw a flash. PO Diaz held the phone below his chest
and began recording him, \$87(2)(b) did not recall any details about PO
Diaz's cellphone. §87(2)(b) took his phone put and took a photograph of PO Diaz
recording him (BR 07).
PO Diaz (BR 03) stated that when \$87(2)(b) reached the bottom of the staircase, as he continued his previously mentioned screaming, he took a photograph of \$87(2)(b) on his
department-issued cellphone (BR 08) because his body-worn camera was not working due to lack
of charge.
Uniformed members of service are required to activate BWC prior to engaging in or
assisting another uniformed member of service with multiple police activities, including
interactions with persons suspected of criminal activity, but are allowed to record other official
activities based on the officer's discretion. <u>Patrol Guide Procedure</u> 212-123, "Use of Body-Worn
Cameras" (BR 09)
Uniformed members of the service are permitted, but are not required,
to use Department smartphones/tablets to photograph and/or video record the enforcement situations which BWC is mandated to record. Patrol Guide Procedure 214-23, 'Additional Data'
(BR 10)
§ 87(2)(g)

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CCRB CTS – Confidential Page 3



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Squad No.: 11		
Investigator: Signature	Investigator Jessica Russo Print Title & Name	06/25/2020 Date
Squad Leader: <u>Edwin Pena</u> Signature	IM Edwin Pena Print Title & Name	06/25/20 Date
Reviewer:Signature	Print Title & Name	Date